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June 16, 1998

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JUN 16 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**BY HAND DELIVERY**

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Re: MM Docket No. 98-43  
In the Matter of 1998 Biennial Regulatory  
Review - Streamlining of Mass Media  
Applications, Rules and Revisions

Dear Ms. Salas:

Transmitted herewith, on behalf of CBS Corporation, is an original and six copies of its Comments in the above-referenced proceeding.

Should any questions arise regarding these Comments, kindly communicate with the undersigned.

Very truly yours,

*Nancy L. Wolf*

Nancy L. Wolf

NLW:sak  
Enclosures  
cc: Peter Doyle, Esquire (w/encl.)  
(By Hand Delivery)

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# Federal Communications Commission

WASHINGTON, D.C. 20554

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JUN 16 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

1998 Biennial Regulatory Review — )  
Streamlining of Mass Media Applications, )  
Rules, and Processes )

MM Docket No. 98-43

## COMMENTS OF CBS CORPORATION

CBS Corporation ("CBS"), by its attorneys, hereby submits the following comments in response to the Commission's Notice of Proposed Rule Making<sup>1</sup> ("NPRM") in the above-captioned proceeding.

CBS, through licensee subsidiaries, holds licenses for 165 radio broadcast stations. Consistent with its philosophy favoring an environment of reduced regulation to the extent practicable, CBS supports the Commission's intention to streamline its administrative procedures. CBS shares the Commission's view that streamlining can increase the efficiency of application processing and reduce unnecessary filing burdens without adversely affecting the public interest.

The Commission has solicited comments on numerous broadcast streamlining initiatives. CBS offers the following comments on some of those proposals.

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<sup>1</sup> 1998 Biennial Regulatory Review — Streamlining of Mass Media Applications, Rules, and Processes, MM Docket No. 98-43 (April 3, 1998).

**I. The Commission Should Implement A Centralized But Permissive Electronic Filing System That Permits Each Licensee To Determine Whether It Should File Electronically.**

The Commission invites comment on whether electronic filing of certain key broadcasting applications should be made mandatory or permissive, and, if mandatory, whether electronic filing should be phased in over time.<sup>2</sup> CBS believes that the advantages of electronic filing over paper filing make ultimate public acceptance of the electronic approach inevitable. Nevertheless, CBS urges the Commission not to adopt a mandatory electronic filing system at this time, because each licensee is best prepared to determine, based on individual circumstances, whether and when electronic filing is feasible and useful. At a minimum, should electronic filing be made mandatory, it should not be implemented until such filing procedures have been thoroughly and rigorously tested and fully evaluated.

CBS believes that the FCC should evaluate its overall electronic filing initiatives to ensure that a centralized, consistent system is developed within the agency. At this time, there are at least five separate and unconnected electronic filing efforts ongoing within the Commission. As a diverse media company that deals with all of the FCC's licensing bureaus, CBS is concerned that this approach will result in it having to deal with five different electronic filing systems, each with different software and computer systems, passwords and access requirements. If this approach to electronic filing continues, CBS believes that the cost of electronic filing could be five times greater than if the FCC were to develop a single centralized system within the agency.

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<sup>2</sup> NPRM at ¶¶ 8,9.

CBS recommends that the Commission separate electronic filing into two parts — first, the determination of what data should be collected for the licensing process, and second, the electronic collection of data for processing of license applications. CBS believes the responsibility for the first effort should remain where it is today, with the bureaus responsible for the particular service being licensed. The second effort should be moved from the five individual bureaus to a central location within the Commission, possibly the Office of the Managing Director. The licensing data collected through a unified process could be electronically distributed to a central electronic reference room and then to the computers responsible for processing the licenses within the individual bureaus.

This approach would provide the solution to the access problem noted by the Commission in both this rulemaking and in the rulemaking proposing a universal licensing system for the Wireless Telecommunications Bureau. A unified data collection system would create a single database of authorized users and their passwords. CBS has numerous subsidiaries which file documents with the FCC. Without a unified access system, CBS would be required to have several hundred passwords to file documents with the Mass Media Bureau alone and would be required to share those passwords with individuals outside of CBS.

Licensees may also be justifiably reluctant to use an electronic filing system because of a concern over insufficient security. The current system permitting electronic filing of FCC Form 398, the Children's Programming Report, illustrates this point. This system, which operates through the Commission's website, is available to anyone with access to the Internet. No safeguards are in place to prevent a person posing as a licensee from submitting a false Children's Programming Report

on behalf of the licensee, and thus the filing system could be easily corrupted, creating more problems than solutions. The Commission's proposal to require the use of a Taxpayer Identification Number ("TIN")<sup>3</sup> to obtain access to the electronic filing system only partially solves this problem, as maintaining the confidentiality of TINs can be difficult — if not impossible — to achieve. Moreover, the use of TINs possibly creates a separate problem of access. If TINs are required, will their use limit system access to one inquiry per TIN at a time? If so, then large broadcast companies such as CBS would be affected by this restriction on access.

Even if problems relating to security and access are minimized or even avoided altogether, and the development of a single agency-wide electronic filing system is adopted, CBS believes that the Commission need not make its electronic filing system mandatory. Once electronic filing has proven itself reliable and secure, the public will ultimately come to rely on it because of the advantages it has over paper submissions. One need only examine the success of the electronic filing of federal tax returns for evidence that the public will voluntarily support electronic filing over a period of time. The IRS's permissive system generates increasing use each year, as the public becomes more comfortable with the concept of filing electronically and because of the advantages it offers over the traditional filing of returns.

In short, CBS maintains that a well-conceived, centralized and internally-consistent electronic filing system can benefit the public interest, and that the advantages such a system has over traditional filing make widespread public acceptance of the system inevitable. However, CBS urges

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<sup>3</sup> NPRM at ¶¶ 12-16.

the Commission not to mandate electronic filing as the exclusive mode of making submissions; rather, licensees should be permitted to decide for themselves whether electronic filing serves their individual needs.

**II. The Commission Should Streamline The Broadcast Application Process**  
**By Adopting Enforceable Certifications And Eliminating Certain Unnecessary Rules.**

The Commission maintains — and CBS agrees — that before the benefits of electronic filing can be fully realized, broadcast application forms currently in use should be streamlined. Specifically, the Commission proposes to replace the open-ended exhibits and document submissions currently required with detailed instructions that provide applicants with the ability to certify compliance with the Commission's rules.<sup>4</sup> Although CBS supports this approach on general deregulatory grounds, it does so only to the extent that the streamlined approach does not provide a means for broadcasters to circumvent important Commission regulations. As the Commission correctly notes, candor is one of the most sacrosanct obligations of a licensee, and the risk of misrepresentation or lack of candor is heightened when certifications by broadcasters are accepted without supporting documentation. To reduce this risk, CBS urges the Commission to require licensees to retain worksheets for use in response to Commission inquiries. In addition, the FCC should be prepared to promptly respond to any interference complaints resulting from inaccurate certifications.

The use of certifications in lieu of documentation also raises the question of whether the new streamlined applications will provide the public with adequate information. Like other media

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<sup>4</sup> NPRM at ¶ 19.

companies, CBS routinely relies on the technical information contained in broadcast applications filed for non-CBS stations which propose new facilities — or changes to existing facilities — to determine whether the facility in question adversely affects CBS's stations in a particular market and is compliant with relevant FCC regulations. To ensure that this valuable resource remains available to the public, the Commission should streamline the content of required applications only to the extent that critical information relating to station construction and operational parameters is not eliminated.

In addition to comments addressing the streamlining of broadcast applications, the Commission also seeks comment on whether certain substantive rules affecting the processing of applications should be modified or eliminated. CBS believes that many of the rules cited by the Commission as potentially redundant or unnecessary are indeed expendable. Specifically, CBS urges the Commission to adopt its proposals to eliminate: (1) the “no profit” rule (47 C.F.R. § 73.3596(c)) restricting payments upon assignment or transfer of an unbuilt station to reimbursement of a seller's expenses,<sup>5</sup> (2) the requirement that sale contracts be submitted with assignment and transfer applications,<sup>6</sup> and (3) the filing requirement of contour maps for auxiliary facilities.<sup>7</sup> CBS also supports the use of the proposed “Tech Box,” which will permit technical rules to be addressed with

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<sup>5</sup> NPRM at ¶ 25.

<sup>6</sup> NPRM at ¶ 31.

<sup>7</sup> NPRM at ¶ 34.

simple “yes/no” responses, and the elimination of the redundant questions in the FM technical data section of FCC Form 301 relating to site elevation and height of radiated center above sea level.<sup>8</sup>

### **III. The Commission Should Eliminate The Need For Prior Commission Consent Of Routine Assignments and Transfers.**

CBS urges the Commission to eliminate the use of FCC Form 316 requesting prior Commission consent of certain pro forma assignments and transfers, so long as the transfers in question do not affect actual control of licensees or permittees.<sup>9</sup> This will facilitate a licensee’s ability to expeditiously reorganize its corporate or partnership structure for business reasons where the reorganization does not affect the ultimate control of the licensee. The proposed streamlining procedure should not extend to assignments and transfers involving hostile takeovers because these transfers contemplate significant ownership changes. CBS also supports the requirement that notification of any pro forma assignment or transfer, and an ownership report reflecting this change, be filed with the Commission within thirty days. The filing of both notifications and ownership reports will help ensure that the Commission’s license records — an important public resource — are kept current.

### **IV. The Commission Should Adopt Its Proposal To Eliminate The Annual Filing Of Ownership Reports.**

The Commission believes that the frequency with which annual ownership reports for commercial stations must be filed can be reduced without adversely affecting the public interest. CBS

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<sup>8</sup> NPRM at ¶ 44 and n.17.

<sup>9</sup> See NPRM at ¶¶ 69-82.



agrees, and supports the Commission's proposal to require ownership reports only at the time of the stations' license renewal application and four years thereafter — *i.e.*, during the mid-point of the license term.<sup>10</sup> Under the current procedures, annual ownership reports, in lieu of a certification of “no changes,” are required for even the most minor changes to a licensee's ownership information, a requirement that adds little to the Commission's ability to monitor the ownership configuration of broadcast stations. Therefore, the Commission's proposal should be adopted because it will significantly lessen administrative burdens on licensees without jeopardizing the public's ability to ascertain the identities of broadcast station owners.

#### **V. Conclusion.**

CBS strongly supports the Commission's efforts to deregulate the broadcast environment and lessen the administrative obligations placed on licensees. To further this effort, CBS urges the Commission to: (1) implement centralized, but voluntary, electronic filing, (2) streamline broadcast applications through the use of an enforceable certification process, (3) eliminate the need to request prior Commission consent for certain routine assignments and transfers, and (4) lessen the frequency with which annual ownership reports need to be filed. These steps, if implemented, will

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<sup>10</sup> NPRM at ¶ 85. Apart from reducing the frequency of annual ownership reports, CBS continues to believe that ownership reports should be filed within thirty days of the closing of a transaction to reflect a transfer of control or assignment of license so that the FCC will have current information on file regarding the ultimate ownership of a licensee.

increase the efficiency of application processing and lessen filing burdens, which is in the public interest.

Respectfully submitted,

CBS CORPORATION

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June 16, 1998

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